

Medicaid Estate Recovery

Medicaid estate recovery is required by federal law (Social Security Act - 42 USC 1396p) as well as by State law (IC 12-15-9).

In cases where a Medicaid recipient dies and has an estate, the State is to file a claim against the recipient's estate in order to be reimbursed for services it paid on behalf of the recipient when the recipient was age 65 or older. In addition, the claim includes payments for services provided to a recipient age 55 or older if the services were provided on or after 10/1/93. The claim includes the cost of all types of Medicaid services provided to the recipient.

Assets subject to recovery

All assets in the recipient's probate estate are subject to recovery. Assets that were exempt (not counted) for Medicaid eligibility purposes may be subject to estate recovery. (Probate is the process by which the real and personal property of a deceased person is distributed to heirs (if there is no will) or to beneficiaries named in the will.)

Some assets outside of the recipient's probate estate are subject to recovery.

Assets not subject to recovery

- Proceeds of a life insurance policy or annuity.
- The first \$125,000 of jointly-held real property with rights of survivorship (until 2008).
- Real estate used for the support, maintenance, or comfort of the surviving spouse, dependent child under age 21, or a dependent who is non-supporting due to blindness or disability.
- Personal effects, keepsakes, and ornaments of the deceased.
- *Assets protected by the use of an Indiana Partnership long term care insurance policy.*

Filing of a Claim

There is no time limit as to when the State has file its claim. However, it is still important for claims to be filed in a timely manner. Most estate recovery efforts do not involve court proceedings. Court proceedings usually occur for estates valued at, or greater than, \$25,000.

The State may waive its claim against a deceased recipient's estate if enforcement of the claim would result in undue hardship for the survivors. Basically, "undue hardship" means the survivors would become eligible for public assistance if the State enforced its claim.